



5001-06-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 209, 212, 213, and 252

[Docket DARS-2019-0035]

RIN 0750-AK70

Defense Federal Acquisition Regulation Supplement: Update to Performance Information System References (DFARS Case 2019-D033)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final Rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement changes regarding the discontinued use of the Past Performance Information Retrieval System and update all associated references in the DFARS.

DATES: Effective **[Insert date of publication in the FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bass, telephone 571-372-6174.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is issuing a final rule to amend the DFARS to update references to the Past Performance Information Retrieval System (PPIRS) for past performance information and replace with

Contractor Performance Assessment Reporting System (CPARS) to implement changes following the official retirement of PPIRS and subsequent merger with the CPARS effective January 15, 2019.

This rule also amends the DFARS to replace references to "Past Performance Information Retrieval System-Statistical Reporting" with "Supplier Performance Risk System" and update the associated web addresses.

II. Discussion and Analysis

This final rule removes two references to PPIRS at DFARS 209.105-1(2) and replaces the references with CPARS and the Federal Awardee Performance and Integrity Information System (FAPIIS) module of CPARS.

In addition, in the title of DFARS provision 252.213-7000, "Past Performance Information Retrieval System-Statistical Reporting" is replaced with "Supplier Performance Risk System." Conforming changes are also made to the title of the provision at DFARS 213.301(f)(v) and the obsolete PPIRS web addresses at DFARS 213.106-2(b)(i)(A), 213.106-2-70, and 252.213-7000(a) and (d).

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not impact or create any new provisions or clauses, and only makes technical corrections to the title of an

existing provision and web addresses contained within the provision. The rule does not impose any new requirements on contracts at or below the simplified acquisition threshold or for commercial items, including commercially available off-the-shelf items.

IV. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation is 41 U.S.C. 1707 entitled "Publication of Proposed Regulations." Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because the rule merely updates cross-references and makes technical corrections to address the system merger of PPIRS and CPARS, effective January 15, 2019.

V. Executive Order 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, or reducing costs, or harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

VI. Executive Order 13771

This rule is not an E.O. 13771 regulatory action, because this rule is not significant under E.O. 12866.

VII. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C.1707(a)(1) (see section IV. of this preamble), the analytical requirement of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

VIII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 209, 212, 213, and 252

Government procurement.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 209, 212, 213, and 252 are amended as follows:

1. The authority citation for 48 CFR parts 209, 212, 213, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

Part 209—CONTRACTOR QUALIFICATIONS

2. Amend section 209.105-1 by revising paragraph (2) to read as follows:

209.105-1 Obtaining information.

* * * * *

(2) A satisfactory performance record is a factor in determining contractor responsibility (see FAR 9.104-1(c)). One source of information relating to contractor performance is the Contractor Performance Assessment Reporting System (CPARS) available at <https://www.cpars.gov/>. Information relating to

contract terminations for cause and for default is also available through the Federal Awardee Performance and Integrity Information System (FAPIIS) module of CPARS, available at <https://www.fapiis.gov> (see subpart 42.15). This termination information is just one consideration in determining contractor responsibility.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

2. Amend section 212.301 by revising paragraph (f)(v) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

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(f) * * *

(v) *Part 213—Simplified Acquisition Procedures.* Use the provision at 252.213-7000, Notice to Prospective Suppliers on Use of Supplier Performance Risk System in Past Performance Evaluations, as prescribed in 213.106-2-70.

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PART 213—SIMPLIFIED ACQUISITION PROCEDURES

213.106-2 [Amended]

3. Amend section 213.106-2 in paragraph (b)(i)(A) by removing "PPIRS website at <https://www.ppirssrng.csd.disa.mil>" and adding "SPRS website at <https://www.sprs.csd.disa.mil/reference.htm>" in its place.

213.106-2-70 [Amended]

4. Amend section 213.106-2-70 by removing "Notice to Prospective Suppliers on the Use of Past Performance Information Retrieval System—Statistical Reporting in Past Performance Evaluations" and adding "Notice to Prospective Suppliers on Use of Supplier Performance Risk System in Past Performance Evaluations" in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.213-7000 [Amended]

5. Amend section 252.213-7000 by—

a. Removing clause date "(MAR 2018)" and adding "(SEP 2019)" in its place;

b. In paragraph (a), removing

"(<https://www.ppirssrng.csd.disa.mil/>)" and adding

"(<https://www.sprs.csd.disa.mil/>)" in its place; and

c. In paragraph (d), removing

"https://www.ppirssrng.csd.disa.mil/pdf/PPIRS-SR_UserMan.pdf"

and

"https://www.ppirssrng.csd.disa.mil/pdf/SPRS_DataEvaluationCriteria.pdf" and adding

"<https://www.sprs.csd.disa.mil/reference.htm>" and

"https://www.sprs.csd.disa.mil/pdf/SPRS_DataEvaluationCriteria.pdf", in their places, respectively.

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